

SPEECH

OF

HON. A. W. TERRELL,

DELIVERED IN THE

SENATE OF TEXAS,

JANUARY 21, 1884,

ON SENATE BILL No. 2, ENTITLED "AN ACT TO REGULATE THE
GRAZING OF STOCK IN TEXAS, AND TO PRESCRIBE AND
PROVIDE PENALTIES FOR ITS VIOLATION."

REPORTED BY THOS. H. WHELESS.

AUSTIN:
E. W. SWINDELLS, STATE PRINTER.
1884.

333 T277e



SPEECH

OF

HON. A. W. TERRELL.

The Senate being in Committee of the Whole on Senate Bill No. 2, entitled "An act to regulate the grazing of stock in Texas, and to prescribe and provide for enforcing penalties for its violation,"

26 Apr 99 M.C. Wood

SENATOR TERRELL said: Mr. Chairman: I do not know when I have felt more touched than I was ten minutes ago, when the distinguished divine, who officiated in the place of our Chaplain, prayed that we might be inspired with that dignity and modesty which become the law-givers of a great people. I say, sir, I do not know when I have been more touched, in view of the scenes of the last few days, which remind me of nothing so much in man's history, as the fiddling of a Roman Emperor when Rome was burning. I cannot respond in the spirit of badinage which has inspired this discussion, and which has characterized the members of the opposition. With a defective voice and an aching head, I shall have enough to do to address myself to the question, without attempting to tickle the ear of the groundlings by anecdote, or gratify myself by just retaliation on those who should know their duty, but are constrained by the madness of the hour to evade it.

And first, sir, before discussing this bill, let me, in all fairness, get those who have been unable to understand my position, although I labored two long hours to make it understood, with simple, plain language, I say, let me get them out of the fog, that they may understand who it is that is impaled on the barbed wire fence.

First, I am for removing provoking causes for lawlessness, and putting those who are wrong-doers in the penitentiary, if that be necessary to stop provocations. The man who encloses the land of his neighbor without his consent, and will not turn it loose, unless he conforms to the principles of the bill for fencing it up, put him in the penitentiary. Does this make me the champion for pasture men?

If he will not give a road out of his pasture, if another owner occupies the interior land, put him in the penitentiary. Is that acting in the special interest of the big pasture man?

If, having a pasture in which he can keep his stock, he does not conform to the principles of the bill for the use of outside grass, when he turns them out, put him in the penitentiary. Is that acting in the special interest of the big pasture man?

On the other hand, if the man, from innate meanness or from perverted judgment, goaded, it may be, by what he conceives the grievances that have been inflicted

p 26210

upon him, has, either in the night-time or day-time, clipped the wires or destroyed the fence of another, whether all the land inside belong to the owner of the fence or not, it is not for him to become the executioner of the law in Texas, and I would put him in the penitentiary.

Well, it would seem that I have left myself without a party. Not so, sir; it is the party of the future, the party of law and order in this country, which will maintain the majesty of the law against all wrong-doers; the party of right and of constitutional government, on which I depend with faith as firm as a rock when the madness of this hour has past.

The broad range which the discussion of this bill has taken requires me to invite you back to the bill itself, after we first examine the evils that demand its passage. Its doctrine cannot be destroyed by ridicule or anecdote, for those are seldom resorted to by a statesman, except when he lacks argument. The situation is too grave for merriment except to those who, like Nero, would fiddle while the city is burning. The wide-spread destruction of property by organized bodies of the people indicates the existence of grievances which, though they can never excuse lawlessness, demand the care of the law-maker. Communism, rank and dangerous, is abroad among the people. The pernicious teachings of Mr. George, that land and water, like air, are free, and that no man has a right to more of either than his personal needs require, have taken root, and must be eradicated, or civilization is at an end. On the other hand, deluded people, instead of waiting for the peaceful methods of law to redress grievances, have made a law unto themselves, and life and property are rendered insecure, and being destroyed by their frenzy. This spirit must be curbed and means provided for punishing men who thus act, or government has failed in its mission. The man who wilfully combines with others to destroy private property is an assassin of liberty; for liberty with us is only such when regulated by law, and there is no despotism so fearful as that of lawless majorities.

But, sir, there are grievances terrible to contemplate now provoking the people, and I have sought in one bill to remedy some of those evils and at the same time provide a punishment for fence destruction. I would in the same bill punish the man who provokes to fence cutting and the fence-cutter himself, and send them to keep each other company in the penitentiary. I champion the cause of neither, but say to both, in destroying property values you array yourselves against civilization, and I would treat you as its enemy.

FIRST CAUSES FOR FENCE CUTTING.

Before considering the bill, I will again review the mischief of the hour. There were at first deep-seated causes for this lawlessness which free-grass Senators will not discuss. I mention—

1. The rapid increase of a poor population, which has come to Texas more rapidly than we have been able to provide for and assimilate them.
2. The rapidity with which partial laws have enabled a favored class of stock men to grow rich on the lands of other people, and on school lands held in trust for our children, and the jealousy which always follows riches quickly obtained.
3. The construction of vast pastures, which resulted in throwing the reckless herdsmen out of employment.
4. The avarice of pasture men, who devour in summer the grass around the humble homes of the small farmer in order that they may have good winter grass in their pastures.
5. The absence of proper road laws.
6. The enclosing of vast properties by landed corporations composed of men out-

side of Texas, who swing the anaconda coil of their wires around school land and individual lands alike.

7. Large herds owned by corporations and individuals who own no land, and which are driven to peaceful neighborhoods to consume the grass, or depredate alike on the school land and that of private citizens.

8. The fencing up of water holes in prairie wastes, fraudulently leased as being on dry sections of land.

9. Enclosing the school lands and private property in large pastures, to the exclusion of the owner and others.

These are among the prominent evils of the hour; and the bill looks to the correction of each and every one, except the defective road law, which must be corrected by another act.

EXTENT OF SCHOOL LAND.

We have about thirty millions of acres of school land, nearly all of it in the Panhandle, lying north of the thirty-first parallel of latitude, and west of the ninety-ninth degree of longitude, in fifty four unorganized counties. Every section of that school land has been surveyed. The public domain is all gone, and what was once public land now belongs to private parties, to corporations and to the children of Texas. These school lands are a sacred trust, held by the Legislature under the Constitution for the education of our youth, forever. Over all that domain in those fifty-four unorganized counties vast herds of cattle are grazing on mesquite grass, winter and summer, enriching a favored class in this country who enjoy that range free of charge.

These school lands, leased at four cents per acre, would yield a revenue for free schools of *twelve hundred thousand dollars* a year; enough, with other funds on hand, to school every child in Texas, white and black, eight month in the year, without taxing the producing classes one dollar. Corporations speculating in land, the great source of life, many of whose stockholders live in Scotland, France and England, rule with the sway of lords that vast domain; gathering wealth without labor and without price, while we, the trustees of a territory for children yet unborn, stand idly by. Was I not right when I said only yesterday, that Texas, in turning over that country to the common use of cattle speculators, had made herself the champion communist of this continent? How can she punish the fence cutter for coveting his neighbor's grass, so long as she encourages communism by refusing to punish corporations and individuals for trespassing on the pasturage owned by the children of this State?

The authority of law is never felt in that Panhandle country, which, with unorganized counties southwest of it, covers a territory larger than New York. One corporation encloses seven hundred thousand acres, covering nearly three counties, and its five hundred stockholders are scattered in every city from St. Louis to Paris.

CONDITION OF PANHANDLE COUNTRY.

Go with me into that Panhandle country and explore its mysteries. There you will find a wire fence said to be one hundred and twenty miles long, running east and west, crossing school lands and the land of private parties. It is a straight fence to catch drift cattle and connects with no other. North of it, men who own grass and those who own none, have divided off for their use the territory of Texas; and woe to the unlucky stranger who drives his herds to share with them the grass. Streams and dividing ridges form the arbitrary boundaries of their usurped dominion. Lines of side-riders pass every day from north to south, and fence and keep the

stock of each lord on the territory claimed by him. Vast pastures, without regard to ownership of land, now enclose counties. Passing from Mobetee to Tascosa, 130 miles, you are only out of a pasture for twenty-three miles of the distance. The Kerr Land and Cattle company is said to have 70,000 head of cattle in a pasture, across which is a day's journey. The Franklin Land and Cattle company is reputed to have over 70,000 head in Gray and Hutchinson counties, while the Matidor Cattle company dominates with stock men and cattle the territory of Crosby, Dickens and perhaps Motley counties. One firm alone, which purchased over twenty thousand head from the Millett Bros., and which is said to own two millions of dollars worth of cattle, has hardly enough land in Texas for their vast herds to be penned on. Free-range men, who neither own nor lease land, occupy most of the land from the Sand Hills to the north, and from Red River to the Rio Grande, along the border, except that fenced in those immense pastures. Roaming over unorganized counties and along the border, from one water hole to another, they trample under their hoofs the grass around the humble home of the pioneer nester; and thus, away from law, where power measures right, there is no redress.

When is this madness to cease? and does not this wholesale use of school lands by associated capital, and its purchase by indirect agencies, call as loudly for an executive recommendation to correct it, as the evil of the statute not giving a lien on an animal that goes into another man's pasture, which his Excellency thinks we should correct?

Be patient, Senators; I am doing a sum for the farmers of this State, and if that stenographer will report my words, I will send it through the land. I am showing the evils that threaten social order before I answer your objections to my remedy. In one county, three months ago, there was a pasture of two hundred and fifty thousand acres, built on a cordon of sections owned by the pasture men. The fence was all on their land; but inside of that pasture there were over fifty thousand acres of land which belonged to private parties and to the school fund, not an acre of which was rented to them. Near that pasture runs a stream of living water, up which the hardy emigrants had pushed their way, and built their nests. From that pasture herds of cattle poured out during the summer to consume the grass around the humble homes, and tread to mortar the prairie *where verdure grew*, only to return to fine range, on the inside, during winter. Put yourself in the Lester's place—unable to raise a milk cow or a beef on your own land. You look over into the pasture of your neighbor and reflect that he has appropriated to his own use the school land dedicated to your child as well as his; and would you not curse in bitterness of heart the partial laws that gave you no remedy? My friend, Senator Henderson, who lost an arm in the service of his country, is said to own a section of land inside of that pasture, which he could neither rent nor sell to the usurpers.

ROAMING STOCKMEN.

Along the border counties now organized, skirting the Panhandle, and in those below the sand hills, the same wrong and oppression is found. Wandering, nomadic herdsmen range across dividing ridges from one stream to another, over their kingdom of free grass, consuming the range and starving the home stock of the small farmer—men who own nothing but their stock, their herd horses, and side-arms. To some of these gentry, the wire fence, whether around the farmer's pasture or a school section, is especially inconvenient; and among them are found warm disciples of Mr. George—men who believe that land ought to be free, and who whisper into the ear of the nester that their pastures alone cause all the trouble. Unless this gentry is controlled by law, unless they are made to cease their wandering ways and

buy or lease the grass on which they feed, there is no peace for Texas. The fenced-in water hole is in their way, and, with the help of the deluded settler, they make it the special object of their devilment. I see a man now in the lobby who will tell you that the corporations which own fat herds and no land are not the only depredators, for that, within one hundred miles of where I now stand, there are scores of men who own from 500 to 5000 cattle, who hardly own or lease enough land on which to round up their herds. These gentry are the same in all ages. Since the days when the herdsmen of Gerar strove with the herdsmen of Isaac at the well—since the days when Jacob swindled his father-in-law Laban, by fixing his striped rods, the wandering herdsmen has been gathering by craft and holding with the strong hand. Their habits are wild and unrestrained, and the custom of marking a calf without knowing the ownership of its mother will never improve your civilization. I know this class well, and for thirty years I have both tried and defended them. Faithful in friendship and vindictive in their hate, they will make your best citizens when you once stop their roaming. Until then they will sometimes practice the strange morality of seeing no wrong in desolating the range around the settler's door, or hanging a horse-thief and branding an unknown calf as (some of them have done) on the same day. As long as they are let alone they will fix boundaries on free range between themselves in the Panhandle, even as Laban and Jacob did, and watch each other with the same suspicion that this same Jacob did his brother Esau, when, after a long absence, he came to meet him—with four hundred horsemen—sending forward his presents of goats and cattle, but hiding in the rear Rachel and her tender-eyed sister, to both of whom he had taken a fancy.

FREE GRASS THE GREAT CAUSE.

Sir, free grass in Texas is at the bottom of all this lawlessness; against it this bill opens a war; against it, I put in motion a ball, which, whatever this Senate may do, will roll over those who stand in its way next November; for upon its progress depends, not only the advance, but the existence of civilization in Texas.

Look at your condition. Last year 400,000 cattle were under contract in January for the northern drive; this day not one hoof is bought, for there is not a bank in St. Louis, Chicago or any where else, that will advance a dollar to a Texas cattle man. Your banks at home will not advance for beyond 90 days, and then only on gilt-edge collaterals, while your landed values are depreciating twenty millions a month. Nobody wants your land, for a commune spirit demands that it shall be free—even when you fence it. The whole social fabric is honey-combed with communism, and nothing but a "heroic remedy" will cure it; no wizard oil or healing plasters will restore confidence or protect property rights, for this is no skin disease; the surgeon's knife must go the *bone*, for the hip joint is affected, and the State has ceased to advance. Free grass, and the devilment that it breeds, is at the bottom of all this trouble. This lobby holds its free grass advocates, who say one thing in their cattle convention and another thing up here. But I see

NO FARMER HERE,

and hear nothing of their conventions in Austin; but when you refuse to pass my bill—when you increase their burdens in school taxes to fatten corporations and wandering herdsmen on school lands, you will hear from them at the numbering of the tribes in November.

WHO SUPPORTS THIS STATE?

In 1879 there were in Texas 200,000 farmers (I leave off odd figures); of agricultural

laborers there were 143,000, making in all, of those who till the earth, 343,000. Of stockmen and herders there were only 14,031, or about twenty-two farmers for one stockman.

WHO OWNS THE LAND?

The value of farms, fencing and buildings in Texas in 1879 was \$170,468,866. The whole land values of the State was \$216,954,000—leaving to corporations, pasture men and wild land owners of values but \$46,468,060, while farmers paid taxes on fixed values amounting to over \$170,000,000.

WHO OWNS THE STOCK?

The census report shows that the value of farm stock in 1880 was \$60,307,000. The Comptroller's report shows the whole value of cattle in the State in 1883 was \$28,307,000. So the cattle values of our farmers who had to sustain their stock without school land grass were double that of the ranchmen.

WHAT MORE?

The value of Texas farm products was, in 1879, according to the census, \$65,204,000
We raised cotton that year worth..... 67,758,000

In all.....\$132,962,000

Or, in other words, our farmers made from the sweat of their brows, in one year, in Texas fields, more than three times the value of all the ranch stock in the State.

The farmer had some burdens.

That year (1879) he spent in building fences.....\$ 3,676,603
And he invested in agricultural implements..... 9,000,000

Total..... \$12,676,603

Vast as the products of our farmers were, the farmer and farm laborer averaged in wages and profits but *twenty-five dollars* a month.

THE AREA OF AVAILABLE PASTURAGE

in Texas is 150,000,000 of acres, while the entire land area of the State is 167,735,000 acres. We have of cattle, mules and horses, according to the Comptroller's report, about 6,000,000, or, as you see, about twenty-one acres of available pasturage to the head.

FARMERS TAXED FOR FREE GRASS.

Now, sir, these 343,000 farmers labor in the field to pay over a million dollars in taxes to educate the white and negro children in Texas, while 14,000 free-grass stockmen are enriched without paying one dollar rent for the 30,000,000 acres of school land on which they graze. Such open-handed plunder of farmers, encouraged and permitted by law, has never been witnessed since William the Conqueror divided out the English farms among the Norman barons. That school land, even at

four cents per acre, would bring \$1,200,000 a year—enough to educate, with other available funds, without taxation, every child in Texas. I have seen the derisive smile when Senator Johnson, sometimes called Rutabaga Johnson, the only farmer among us, would rise in his place and warn you that these school lands should be made to yield a rental *now*, that the farming classes might be relieved. Let me tell you, rude of speech as he is, in all that pertains to patriotism, he is the peer of any of you, and his unheeded warnings will yet pester us. You tell me that under existing law, these school lands will be leased; but how and when? At the present rate, under the law, it would take about sixty years, and your land board, which seems to make law instead of execute it, will be bound to lease to the best bidder, and not in limited quantities, which will increase the evil and place those lands, if ever leased, in the long purses of land corporations. Mark my prediction, when you have buried my bill, you will pass some high sounding measure that will give preference in leasing to the man who already has a school section in his pasture, as if priority in theft should invest him with superior rights, and you will put the lands to the highest bidder and enable concentrated capital to strangle competition. You know that there is not a constable or magistrate in the fifty-four counties of the Panhandle; and now, mark my prediction: If this bill is defeated you will make a penalty for grazing on school lands, and refuse to create any tribunals to enforce your law in that vast territory, covered all over with cattle. Lay not the flattering unction to your souls that this dodge of the free grazer will pass muster, or that your policy can be concealed.

WHERE FENCE CUTTING STARTED.

Sir, the weather prophet when he foretells a storm, first finds out from his signal-stations where the atmospheric pressure is greatest. Let us imitate his example and scan the political horizon. Close along the edge of the unorganized counties, north of us, this fence cutting mischief first started, for there the pressure was greatest. The farmer, making his twenty-five dollars a month, finds the range around his home destroyed by the wandering stockmen, who owned no grass. He is a nester, but his little nest with his white-headed babes are as dear to him as yours can be to you. This country was made and has been defended by these same nesters. Looking across the border into the Panhandle, he discovered a new race of men springing up, who without labor were enriching themselves on unrented land, solemnly dedicated to educate the children of all. Yes, sir, a new breed of men who are called *Kings—cattle kings*. I told you about one of them the other day.

Mr. Driskill, of my town, authorized me to say that, eleven years ago he owned 800 head of cattle, and now is worth \$800,000, every dollar of which was made from cattle raised on public land, and that he never was even called on to pay one dollar of taxes. I told you that he was a good man, and not to be blamed, for the fault lay at our doors. Senator Davis wanted to know why he did not give some of it to the poor. Well, he gives by rule, just \$5,000 a year to the poor; more money than that Senator ever made in one year by his practice or otherwise. This is not all; as the nester looks into that broad waste covered with mesquite grass, he sees the drift fence of the Matidor company, a corporation with its five hundred native and foreign stockholders, and knows that the grass that should educate his children is enriching men in foreign lands, while he must labor for taxes to educate the children of all. He sees, under the operation of partial laws, a breed of pampered speculators enriched by the State, and the deep gulf between the rich and poor widening and deepening every day. No tide of emigration can ever invade those vast possessions usurped by corporations and individuals; for the stillness of death is upon the plains,

broken only by the lowing of the cattle, and all the land is partitioned by the arbitrary boundaries set up by these modern Labans and Jacobs. No fence cutting in these plains, for these kings make their pastures safe by the free riders of the prairie, who are as experts with the pistol as with the lasso. Sir, this picture is not overdrawn, and even a fool can understand how a small farmer, goaded by his surroundings, finds himself working at the nippers by the side of the free-grass herdsman, on the wire fence around the pasture of some rich neighbor, I have no excuse for him; there is no excuse for him who violates law. Along the line of the organized counties of the border, the cloud first settled that threatened us, and it has spread until now, the deluded farmer is striking hands with the herdsmen over half the State in destroying property, never dreaming that he is applying the torch to the very framework of society.

PRESSURE ON THE SENATE.

Let us pause a moment to see also where the pressure that threatens to strand this bill comes from in the Senate. Cast your eye along the edge of the frontier from Red River to the Rio Grande, and you will find the Senator from Cooke (Senator Davis), the Senator from Dallas (Senator Gibbs), the Senator from Parker (Senator Shannon), the Senator from Eastland (Senator Fleming), and the Senator from Bexar (Senator Houston). In Gainesville, Weatherford, Dallas, and San Antonio, where these senators live, these cattle and land corporations who have divided up these 54 counties have their headquarters, and there many of the free grass kings live. These are the champions of the opposition, who see nothing wrong in the unorganized counties; these are the speakers of the opposition, whose constituents are those who hold the purse strings for those 14,000 ranchmen. No Eastern Texas, no Central Texas Senator has opposed this bill in debate. Along that border are the two other Senators, Senator Matlock, from Montague, who represents over forty counties of the Panhandle, and who lives not at the headquarters of the corporations, but in their dominions. Rising to the full height of a Texas Senator, he sees the danger of the hour, and by his fearless course on this bill gives assurance of further usefulness. Further west is the Senator from Cameron (Senator Collins), himself the owner of a 40,000 acre pasture, which has never been cut, for he oppresses no neighbor, and who favors and reported this bill. These two stand on the frontier like rocks in the ocean, unshaken by the free-grass champions.

The pressure on these border Senators in favor of land corporations becomes more apparent when I tell you that, since we met here one short year ago, when, on my motion, we solemnly enacted that no land corporation should buy more than one school section in one county, the following charters have been granted, with headquarters of the corporations in the following towns in the districts of those Senators:

	<i>Capital Stock.</i>	<i>Headquarters.</i>
Palo Pinto Merino Co.....	\$ 100,000.....	Weatherford
Mill Iron Cattle Co.....	1,000,000.....	Gainesville
Monro Cattle Co.....	500,000.....	Albany
Ohio Wool Growing Co.....	100,000.....	San Antonio
Mexico Cattle Co.....	500,000.....	Colorado
Espuela Cattle Co.....	500,000.....	Fort Worth
Llano Live Stock Co.....	400,000.....	Fort Worth
North Concho Cattle Co.....	300,000.....	Colorado
Alamo Cattle Co.....	600,000.....	Fort Worth
Rio Grande Cattle Co.....	250,000.....	Colorado
Gainesville Live Stock Publishing Co.....	10,000.....	Gainesville
Colorado, Chicago and Texas Land Investment Co....	3,500,000.....	Gainesville
Stone, Cattle and Pasture Co.....	4,000,000.....	Gainesville

	<i>Capital Stock</i>	<i>Headquarters</i>
Fort Worth Live Stock and Land Co.....	100,000	Fort Worth
Boston and Texas Land and Loan Co.....	200,000	Dallas
Texas Land and Live Stock Co.....	50,000	Fort Worth
Texas Investment Co.....	100,000	Fort Worth
Texas and Montana Cattle Co.....	600,000	Fort Worth
Indiana Live Stock Co.....	500,000	Dallas
Live Stock Protection Association.....	25,000	Dallas
Gainesville Land and Cattle Co.....	1,000,000	Gainesville
S, R. E. Land and Cattle Co.....	200,000	Fort Worth
Horse Shoe Cattle Co.....	100,000	Fort Worth
West Texas Stock Yard and Refrigerating Co.....	150,000	San Antonio
Fort Worth Stock Yards.....	10,000	Fort Worth
Liberty Cattle Co.....	100,000	Fort Worth
St. Louis Cattle Co.....	200,000	Colorado
Brazos Cattle Co.....		Fort Worth
Keystone Real Estate Association.....	50,000	Dallas
San Antonio Live Stock and Land Co.....	200,000	Coleman
Jumbo Cattle Co.....	300,000	Colorado
Tahoka Cattle Co.....	200,000	Fort Worth
Texas Real Estate Association.....	100,000	Dallas

Scan the surroundings of those Senators more closely, and what more do you discern? You were told through the press only yesterday, that Senator Johnson was the only rich Senator, and all the rest of us were poor. Let us see. Senator Fleming told you yesterday that he had 110,000 acres in pasture. He has 100,000 acres in one pasture and 10,000 in another. With such a load in his pockets, and goaded by the barbed wire of the situation, it is no wonder that he grew eloquent in favor of the wandering herdsmen outside of his domain; but it would have been wiser if he had remembered that the lawless depredations on school grass, which he now encourages, breed the commune spirit that will pester him hereafter. The Senator from Dallas also has his 5000 acres of enclosed pasturage, near Dallas, and by a strange coincidence his colleague in the other house wants to limit the size of pastures to just that amount. The Senator from Bell has a large pasture, on which the nippers have been at work, while the Senator from Montague's pasture was lately destroyed. Senator Traylor, when we failed to get a rational road law through the other house, sold his large pasture, and casts his vote with no handicap weights. Now, sir, right here and, in this connection let me fortify, by the history of our race, as it has passed through the centuries, the position that reforms and increased punishment should go hand in hand. Civilization can not reform by punishment alone; therefore it is that my bill, while increasing the punishment of the fence-cutter, undertakes to punish those who oppress him, for capital has its duties as well as its rights. * * * *

ROMAN PASTURES.

Some Senators in Rome had their big pasture troubles once, just as these Senators have to-day. That era was prolific in writers, so that its history, told by Froude, stands out as plain in detail as the Irish question of yesterday. In the early days of Rome, Spurius Cassius procured a law that the public domain of Italy, usurped by patricians, should be surrendered to the State for necessitous citizens. The law was resisted by the Roman Senate, and became a dead letter. The keeping of large flocks upon the common pasture lands in the Campania excluded

the small farmers from them. The law *De Modo Agri* was then passed, that no one should possess more than 330 acres of the public domain. Again the patricians triumphed, and without repealing the law, it was disregarded; and Italy, with its pasturage, woods and forests, was parceled out for two centuries by patrician Senators. To enforce that law, not to disturb vested rights, Tiberius, and afterwards Caius Gracchus, lost their lives. And then came upon the stage a wonderful man—Cæsar, the nephew by marriage of Marius, who had seen the rights of the people crushed under the legions of Sulla, and bided his time. When he became Consul large tracts were held on the usual easy terms by great landed Senators and patricians. These, Cæsar, when Consul, proposed to buy out and settle on them Pompey's veterans, who had just driven the pirates from the Mediterranean, and could find no land on which to rest. The public lands had been shared conveniently among the Senators, and they resisted him. Cato headed the opposition, while the Senate groaned and foamed even worse than these border Senators did yesterday. Cæsar then went before the Temple of Castor and proposed his decree to the people. Pompey and Cassius were at his side. Cæsar asked Pompey: "Will you, Pompey, support the law if it be illegally opposed?" He replied: "If you, Consul, and you, my fellow-citizens, ask aid of me, a poor individual, without office and without authority, who, nevertheless, has done the State some service, I say that I will bear the shield if others draw the sword." A hundred thousand throats applauded the answer; the law was enacted by the people, who broke the rods of the Lictors, and scourged the Tribunes who had betrayed their trusts. And thus were 20,000 of Pompey's battered veterans located on public lands, in one year, over Italy. Thus, concession to public necessity preserved the public peace, and perhaps avoided another Cataline conspiracy.

REFORMS IN FRANCE AND ENGLAND.

Sir, whenever a republic has gone down, some land trouble, oppressing the poorer classes, first inflicted the wound. Louis of France and Navarre, in 1315 I believe it was, crystalized his power by enfranchising the farmers and lifting burthens from their necks in his celebrated decree, the first *Magna Charta* of France. Over five hundred years afterwards Mr. Gladstone found himself powerless, even with the great army of England at his back, to stop or punish the fence cutters of Ireland. That statesman, in the same breath which increased the punishment of the lawlessness, corrected real grievances by the land act of 1880, passed to aid the tenant to obtain an interest in the soil. In 1769, the same disturbing forces vexed unhappy Ireland, when tenants were evicted in order to rent to large grazers at high rent. The White-Boys of that day destroyed the enclosures built for the cattle, and the moonlighters and ribbon-men over there only yesterday, followed in their wake.

[Here the Senator had sent up to be read by the clerk, an extract from a work on the Irish Question, showing Mr. Gladstone's policy to do justice to the Irish poor, which we omit.]

Senator Davis—Is he going to have that whole book read?

The President—The clerk will read as desired.

Senator Terrell—Be patient. I'll make you land corporation and free grass Senators more anxious for me to cease than this, before I finish.

GOVERNOR DOES NOT ASK MORE TROOPS.

I call the attention of Senators to the fact that the Governor, in his message to you of the eighth of January, nowhere asks you to place an increased military force at his disposal. How could he? for only a few days before, he had said that sending troops to catch a fence cutter would be like the king of France marching an army

up a hill only to march it down again, for the "fence cutter would be a fool to stay until the soldiers came." If you follow him then, you have no use for troops, nor even for detectives, who, he seems to think, are opposed to the genius of our government.

THE GOVERNOR'S MESSAGE.

Many reforms suggested in his message I approve (if modified); and the pending bill is framed to meet them. I especially refer to that part of his message in which he says, "I recommend a law giving a land-owner a lien on stock that may trespass on lands with the knowledge or consent of the owner, and against the will of the land-owner, for all damages done by said stock, and value of grass and property destroyed by them." This, in plain English language, seemed to be recommending a herd law stricter than we are prepared for, and nothing else. Two days later, when it was manifest that the stock convention would pronounce against a herd law, the Governor made a speech, in which he said, "The herd law has been referred to in your body as the herd law of the Executive, I have not suggested such a thing. What I might conceive to be right, and what I referred to in my message was, the driving of stock on the enclosed lands of another." So, at last it is made plain that the Governor has convened us to pass a law to give a land owner a lien on stock that are driven *inside* of pasture to eat grass, with the knowledge of the animal's owner. This is a revelation; we are convened to pass a law to give a lien to the pasture man for pasture charges, a right which I believe the common law has secured without a statute, time out of mind. But, in that same speech to the stock men, he said, "Protect yourselves! Months ago I said through the press, that the remedy is in the hands of the people. For this, one of the State journals said that I wanted them to take the law into their own hands. No, sir, but I do want to tell these officials to do their whole duty; and if you catch a man setting fire to your barn and destroying your fences, if you catch him in the act and shoot him—well, I will make no pledge as to what I will do, if you will appeal to me in the matter." What is this but a suggestion of executive pardon for murder? Is this your remedy? Encourage the doctrine that the fence owner must make himself judge, jury and executioner; let this doctrine go forth, and the prairies will be dyed in blood from Red River to the Rio Grande. Murder will provoke organized retaliation, and the red arm of butchery will be doing its work, instead of the peaceful methods of protecting laws. The genius of Constitutional Liberty, faint with wandering the plains, and scorched by the vertical rays of anarchy, beheld the Governor of Texas afar off, promising her shade and protection; she hastened, heated and fatigued, to his protecting arms; but when she heard from his lips this implied promise to pardon the murderer, she would not enter the circumference of his shade, and she must now look for safety to the patriotism of the people.

LAW NOT SECURE ON PENALTIES ALONE.

Social order can no more repose on violence and terrorism than it can on penalties. Laws must be grounded in justice to be respected; and any remedy which leaves the Pandora's box of *free grass* open, will only increase the evil. The wandering herdsman who owns much cattle and no grass, must cease his travels; the pasture man must also stop his oppressive ways; and both individuals and corporations learn, by paying for school land grass, to divide the burdens of taxation with the farmer, or there can be no peace in this country.

OTHER REMEDIES NOTICED.

The remedy, sometimes suggested, of giving the Governor power to remove

sheriffs, is in open violation of the Constitution, which entitles the sheriff to a trial by jury. So, also, the remedy of making each county pay for the fences destroyed is not only unconstitutional, but as some counties, like Archer, are fenced in by a pasture, we would have the strange anomaly, under such a rule, of making the owner of a pasture pay for the destruction of his own fence. Executive appeals to the law and order element of fence-destroying counties read well, but they come too late. When the whole social fabric is infected with the malady in a county, the sheriff is powerless, and grand juries become a mockery; then the causes of the malady must be found and removed in the same hour in which the people are invited to defend property rights and social order.

A little patent nostrum, which in due time will see the light here in the Senate looks to giving a pasture man a lien on all cattle that enter his farm enclosure after his fence is destroyed. That remedy will deserve a medal of lead, for again you are met with the objection that the owners of the trespassing cattle would be the numerous under dogs, who are now mad; and the pasture man would be a bold fellow who would impound their cattle.

Now, sir, I have explored sufficiently the whole cloudy horizon, and again say to you that, plaster and doctor this disease as you may, there will be no peace in this country until *free grass* shall cease. He who looks the peril in the eye, and adopts the severe remedy, which alone can cure, is not an alarmist; and he only, in an hour like this, is to be dreaded who refuses to see danger; and who, like the Senator from Harrison, represents his constituents by reading doggerel poetry to the Senate when he should be instructing it with ideas.

THE BILL REVIEWED.

And now, for the provisions of the bill. Though a modified herd law in its results, it is not a herd law in the sense that a man shall keep his stock on his own unenclosed land. Existing habits of the people should be respected, as far as possible, by every law; and I assert that this bill is framed with that view. Take an Eastern Texas farmer, who, with much labor, has a field in that timber region of thirty acres. He has land around him, but covered with timber. If required to keep up his stock, and he should take the fence from around his field to make a pasture, the entire pasture would not sustain one animal. If he should attempt to herd his small stock on his own land, his family would starve for want of laborers in the field while engaged in herding. But in Eastern Texas not one man in twenty owns over twenty-five cattle; and one who does, can rent all the open woodland for pasture he needs for a nominal price. Eastern Texas, with its large agricultural population, will not feel existing conditions disturbed by this bill.

1. The bill requires every man in Texas to have somewhere in the county, where he turns his stock loose, ten acres of unfenced land for each animal kept on the range; provided, that each head of a family* shall be entitled to turn loose twenty-five head exclusive of colts and calves under a year old, even if he has no land. It also provides that a stock owner, having sufficient land, shall not be punished if his cattle drift in winter to another county, if he drives them back at the usual time in the spring.

2. It prohibits a man from hereafter fencing in a tract of land in the interior if his pasture, which he does not own, or from continuing such a fence if already built, unless he fences in the small tract to itself, or arranges with the owner. If the owner of the small tract lives on it, inside of that large pasture, the bill gives him a right to turn loose on that pasture one animal for every ten acres of ground he

*Senator Terrell explained that the amendment he had ready would limit the exemption of twenty-five cattle to the head of a family.

owns, and which is not enclosed by an interior fence; and such use of the pasture discharges the penalty on the large pasture man for its enclosure. It gives the man thus fenced in, if he occupies his land, a right of way over the lines of interior surveys, and ingress and egress through gates to public roads.

3. It prohibits any pasture man from turning stock loose on the outside range, unless he owns in the county, outside his pasture, ten acres for every animal so turned loose.

4. It prohibits every man who has defrauded the State by leasing or buying a school section as dry land, from fencing it up, if it has permanent water on it, which was not made by tanks. Under its provisions, no man can enclose a school section, unless he pays rent for it, or owns it.

5. Six months are given for the cattle men to buy or lease their lands and prepare to cease their depredations. If, for want of time to rent in the regular way school lands, by July next, and the stockman is embarrassed, all he has to do, will be to deposit with the State Treasurer four cents per acre, *per annum*, for designated school lands where his cattle are located, which will relieve him from punishment until he can lease regularly. To ease the fears of those who say here that the bill will double the land values of the State, they may incorporate an amendment which will relieve any stockman from punishment who will deposit with the State Treasurer, for the benefit of the owner, four cents per acre for railroad or private land unoccupied. If it is worth more, the owner can sue him: that deposit will only relieve him from the penalty. It also provides that, if the owner of the land cannot be found, or is a non-resident, a like deposit may be made with the State Treasurer, for the benefit of the real owner, either by the man who wants the lease, or by one who has the land already enclosed, and that such deposit will avoid the penalty. An amendment is also ready which will prohibit a prosecution of one owning over twenty-five cattle, and less than fifty, until ten days after notice is given to comply with the law.

WILL ENFORCE ITSELF IN ORGANIZED COUNTIES.

It is easy to understand that in settled counties, the law will enforce itself. Those who secure sufficient pasturage in such county, will, from self-interest, prosecute the wandering herdsman who uses their range to desolate it, for all, knowing the advantage of not over-stocking the range, will see that each owner has rented enough grass. And can you not also see that when we have settled the road problem, this system will contribute to the safety of the pasture men who own their own land, for when there is enough grass outside for all, there will be no temptation to destroy and invade the pasture.

PENALTIES OF THE BILL.

For violating any of the provisions of the bill, the penalty is \$500, or the penitentiary for two years, or both fine and penitentiary; and a fine of one dollar in addition for every head of cattle unlawfully turned loose over one hundred. This is necessary to force individuals and corporations, which now fatten on school land a hundred thousand cattle, to observe the law. They can rent at 40 cents, under the act, enough grass to feed a beef a year, and will not run the gauntlet for the penitentiary when the pocket nerve is also thus threatened.

SMALL STOCKMEN PROTECTED.

And, sir, let me say to those who fear that this measure would sacrifice the small ranchman, that an amendment is already prepared by me, which will suffer no

leases of school land beyond a limited amount, until after May next, and which gives preference to small stockmen who will swear that their cattle are located in the counties where the land applied for is situated. Thus the small stockmen would be protected; and even an idiot may see that, to all classes it is perfectly just, and will not place the small herdsman at the mercy of the cattle kings. The objection that it will ruin the stock interest, is too frivolous for serious answer. Under this bill, the raising of a beef on school pasturage would cost in four years but *one dollar and sixty cents*; but the policy would relieve the farming people of the State of a burthen of over *eleven hundred thousand dollars* school taxes. Cattle investments would still, as shown by Senator Chesley yesterday, be the safest and most profitable in Texas. What more can be asked? All the small stockman has to do would be to go to the Treasury and deposit four cents an acre for the school sections he wants, if there is no time to lease the land regularly, and thus he avoids the penalty. If the stock of other people in the county roam over his land, he knows that each one represents ten acres of land somewhere in the county, and that his own steers, representing the same amount, was perhaps grazing somewhere else. The rights of all in the range are equalized, and a step will be taken forward in the right direction to stop strife. But who can estimate the result to social order, when, by law, we have once forced these nomadic herdsmen to local habitations and stopped the communistic hell which their wandering life breeds? No longer would the humble nester look with fear to the armed horsemen around his cabin, or suffer from their invading herds, or see the grass around his home trampled and consumed by the stock emptied in summer from the enclosures of these modern kings, only to return to their fat patrician pastures in winter.

It will be seen that the county is made the unit of regulation; and some amendments may be needed to protect from prosecution those located near a county line. If other amendments are needed, supply them, or furnish the people a better system, instead of attacking, on flimsy pretexts, the one before you.

UNFAIR OPPOSITION.

But, to argue this bill from the standpoint of calm reason is not the temper of the hour. Some mysterious influence has demanded its sacrifice; and while one bill after another is brought in, constructed on detached ideas contained in the bill, the measure itself, as a whole, must be defeated. The Senator from Harrison serves his constituents by praising free grass in doggerel on the floor of the Senate; while the Senator from Cook (Senator Davis), with cynical sneer, and pointless anecdotes about physic, on which he seems to have been raised, attempts to serve the cause of free grass and land corporations. That Senator informs us that he came from Georgia. I think it would have been better for Texas if he had never left there, but had remained to help his father relieve hide-bound horses, which, he gravely informs you, was once his employment. He could have served civilization and his country better by remaining in the humble cabin at the foot of the pine-clad hills, drinking from that copperas spring which tinged his complexion and warped his nature. [Laughter.]

OBJECTIONS ANSWERED.

But, perhaps, the most novel objection to the bill comes from the Senator from Harris (Senator Jones). He imagines that some poor widow, owning just twenty-five cattle, finds herself the owner of another calf, dropped the night before the law shall go into effect, and gravely asks if that poor widow shall go the penitentiary?

That poor lady furnished a fruitful theme for the Senator's eloquence, until we could almost see her move through the chamber, meek-eyed and with supplicating hands. As the Senator pleaded her cause over the accidental calf, and invoked the shades of Houston and Rusk, he fairly made our eagle scream, until I could almost see the Goddess of Freedom bending in sympathy over the glowing form of her advocate, to clasp to her bosom her own dear calf. [Applause and laughter.]

Constitutional objections torture the brain of another Senator (Senator Houston). If there is one unconstitutional provision, I will strike it from the bill. There is none. Before being introduced, it was approved by legal friends whose names as jurists are a tower of strength in Texas. I never yet saw that Senator attack a measure, that he was not influenced by constitutional qualms. It has become a disease. As I listened to his oracular voice sounding constitutional doubts, I was reminded of one Colin DeBland, another constitutional lawyer. At an early day in our history DeBland began his speech as follows: "May it please your honor, my client is charged with murder. What is murder? Murder, Mr. Blackstone says, 'is the killing of a reasonable being in the King's peace.' Now, read the constitution of your country, and tell me where's your King. Thank God, the constitution still lives, and the American eagle still soars aloft!" Then, stepping backward, like the Senator from Bexar, drawing himself to his full height, and placing his hand on his receding forehead, he continued, as he bowed profoundly, "Bald! may it please your honor! Bald! not from age, but from a *knowledge of the constitution!*" [Laughter.] That Senator gravely says in his minority report that, "we do not think it advisable to protect grass on unused land that it may grow, and rot, or be burned on the ground, without benefit to any one." Ah, but it does not rot! It fattens the steer and clinks in the purse of the Chicago corporation stockholders and the Scotch lord and banker alike, while the farmers of Texas must run the schools by direct taxation.

Again that Senator says that it would double our taxable value. Well! has it come to this, that the mission of statesmanship is to encourage stagnation and retard progress? I thought until now, that a statesmanship, which, while reducing taxation, would double taxable values, was to be desired; and never heard the contrary until told so by the constitutional champions of the opposition. Desperate indeed, must be an opposition when it is driven to seek shelter behind such arguments.

COMMISSIONERS OF PASTURAGE.

But, sir, I come to another feature of this bill, without which it would be useless. I refer to those sections which create a judicial tribunal, known as commissioners of pasture, with authority to explore those fifty-four unorganized counties, and compel obedience to law; to enter that vast domain, now divided out between these modern cattle lords, where the laws of Texas have now as little force as in the plains around Jerusalem, where Laban and Jacob once set up their land marks. The constitution permits us to create such a court, and the bill prescribes its duties. Each commissioner is entitled to a detail of State troops, to act as an armed constabulary, force under his orders and those of the Governor, when he enters the Panhandle country. No arrests can be made except on probable cause, supported by oath or affirmation or on view.

Let us consider the duties of that commissioner under this bill. He is required to procure sufficient abstracts of titles and leases, and of marks and brands of record in the county to which the unorganized county is attached. Thus provided, he enters that vast domain of luxuriant grass, where nature's stillness is disturbed only by the lowing of herds. If no one will give information of a violation of the act, he sends off his escort to inspect the brands, and with his abstracts of deeds and leases which, alone, are made evidence, he determines, on view of himself and

his sworn constables, if the owner of the brands has enough land paid for to support his cattle. If the law is violated, he has no jurisdiction finally to try, but takes bonds returnable to such counties away from the extreme frontier as the law may fix the venue in. Here, there is a means provided to enforce the law. But this shocks the opposition; and they raise a great cry about the liberties of the people being in danger, because we would send frontier troops up there to aid the law in apprehending its violators. Beautiful consistency! This same stock interest which I would protect in every legal right, but which I seek to regulate, procured in 1876 a law to be passed for their protection, and now on the statute books, which created inspectors of cattle, with unusual powers to stop and inspect herds way up beyond the settlements at the crossing of Red River. Under that law your inspectors can have a *thousand* armed constables if they want them; and it is notorious that they did have such up there. All right for them; but such aid to sworn judicial officers, sent there to stop all of them from plundering at the expense of the school fund, would be dangerous indeed.

But the Senator from Eastland fairly fumed with astonishment at the idea of requiring those cattle commissioners to obtain copies of the marks and brands of cattle, and said it would be impracticable. Miserable subterfuge! Unfortunate memory! That Senator is a lawyer, and has been a judge. Let him just read Art. 4646 and he will find that a law passed for the protection of that wild stock interest, already requires his inspectors to procure those very copies of cattle marks and brands; and if those inspectors have done their duty, the copies are ready now. The truth is, they see in this machinery of commissioners of pasturage, that the sugar teat of free grass is about to depart from the lips of the cattle barons and corporations, and they seize upon any pretext to defeat the bill.

Now, I am not a prophet, but it does not require one to see that when this bill is defeated, some high sounding lease bill will take its place, *but no tribunals will be created to explore the unorganized counties to enforce it—where there is not even a constable or magistrate.*

The Senator from Eastland, standing here behind the barbed wire of his hundred thousand acre pasture, moves with uneasy step in his assault on this measure, for he knows if we pass this bill, it will make that pasture safe after a time, if he owns it; but if he supports it some of his nomadic constituents will first get mad and may want some of the grass inside now. Ah, sir, did you hear his confession that he fenced in a man who owned 640 acres, and suffered that man to turn loose *two thousand* cattle in his pasture? The dread of the nippers at his wire is before him; the shadow of the midnight rider is over him, and if that inside nester should turn loose 5000 cattle in his pasture, he would not complain.

DETECTIVES.

The objection that these commissioners would go as detectives into the Panhandle seems to me to be frivolous. What is your grand jury but a detective tribunal to expose crime? Here is a judicial commissioner with his constables, and I would make him a court to enforce the laws of Texas, *on view*, at the head of the Pecos, or wherever he rests by a water hole among the sand hills. All this apprehension about detectives seems to me to be out of place. When Ham and Tullis, the Texas forgers, were shadowing your titles, your Legislature employed Capt. Tom Sneed of my town, (to whom Texas this day owes as large a debt of gratitude as to any living man), to prosecute them. Money was placed at his disposal to employ detectives and experts in handwriting. They wrought painfully and in silence, until the penitentiary received its grist of gentlemen land forgers, who had shadowed titles to a million of acres of land. There is not a room in the Treasury department or in any other department without detectives; there is not a postoffice in America that is not visited by them, or a national bank or a railway operated without their visitations; not a ves-

sel plow the ocean without one on board; and there is no government or city on earth that can protect property and punish crime without their services. Why, sir, we all remember when Sam Bass and John Wesley Hardin, with their gangs, were a terror in the land. Hardin was tracked and caught in another State by a member of the frontier battalion in disguise, while Hubbard and his Adjutant-General kept a detective force actively in search of Sam Bass. But these commissioners would go in daylight, armed with law, and acting under its limitations. Ah, sir, since the days when Coke, Hubbard and Roberts freely used detectives to stop the wanton persecution of sheepmen, times have changed. As the social disorder increases, the means to check it diminish, until now not a frontier ranger can move to protect property for fear he would move, like the King of France, "first up the hill and then down again," nor can a detective be sent to bring the criminal to light. Let me here predict, that nearly every feature of this bill, if it is defeated now, will be incorporated in other measures, except the sending of officers and a physical force into the unorganized counties, without which all your remedies will be deceptive, and will weigh no more than "the wafted dust on the balances." *Free grass* for wandering herdsmen and lawless cattle corporations beyond organized counties, will never cease until you create *new* judicial and executive machinery to make it cease.

VENUE.

But I am told you cannot, and ought not, to fix venue away from the frontier districts; but that the man should be tried at home, and this, too, by lawyers. The Constitution invests the power in the judiciary alone to *change* venue, but the legislative department acts without limit when it *fixes* venue. Go to your reports and see where, in the State *vs.* Shanks, the forgery was committed in Caddo Parish, Louisiana, and the defendant was never in Austin; and yet the law fixing the venue in Austin was held constitutional. Austin does not covet jurisdiction; my people have been taxed long enough for State legislation; but fix the venue at least where law can be enforced.

POLICY OF PLENTY.

But, Mr. Chairman, it is objected that I would visit too heavy a penalty on the man who turns his cattle out to graze who owns no grass outside of his pasture, and that my penalty is too heavy on him, who, without authority, fences in and uses the grass of school children and other people; and also on him who refuses to give the nester, who owns lands inside of a big pasture, a way out of it. That may be; but is it not wisdom to be more than just to those who feel themselves oppressed by corporations and capital, and need the protecting arm of the State? Beware! first be just to him who complains of oppression before you strike him, and then when he recognizes your justice he will obey the voice of law. Should this turbulent element, which has arrayed itself against property and order, still defy the laws, let them remember that even if the executive arm of the State should be too weak, they will be put down and punished, if it takes the united power of all the States to accomplish it. Let those who control capital also remember that their unreasonable demands to be sustained here in Texas as a favored class on free grass, is unjust; that the duties of capital are no less imperative than are its rights; that this is a government of the people, for the people, and by the people, and that the greatest good to the greatest number of them is the high mission of that government.

In one breath this bill is assailed because it would give security to big pastures owned by individuals; and in the next, because it exempts twenty-five cattle of the poor man.

SECURITY OF PROPERTY.

A big pasture, honestly owned by a citizen, should be always subject to the right to establish roads through it; and, after that, it should be made as safe as

the humblest cabin in the land, or civilization will be rooted out by violence. What a man gets honestly, whether much or little, is his; and wherever there is a State on the earth that refuses to protect him in it, there ought to be a big hole in the earth there, instead of that State. The exemption of twenty-five cattle for the poor man, is in strict conformity with the whole policy of your laws. If any of you should cut one tree on public land the law punishes you as a criminal; but the poor man, with no property but his axe, and no company but his wife, may, wherever on public land he pitches his tent, and desires to stay as a pre-emptor, cut all the timber he wants. Texas has always cared for her poor; and this feature in the bill only continues her policy.

CONSISTENCY.

I said to you, in opening this discussion several days ago, that consistency was the virtue of fools, and without regard to past blunders, we should bury our past differences and unite on the side of social order. For that I am arraigned, and am told of a territory along the line of the Missouri Pacific, all the way across Texas, belonging to that company. But, sir, Texas cannot frown on me and say, "You helped do it." Whatever have been my legislative blunders, and they are many, they have never been on the side of land grants to corporations. Go to your journals, and you will find that I worked and voted to prevent that company from obtaining these lands. On the nineteenth of July, 1876, when that land reservation of the Texas Pacific railway was forfeited, and a relief bill was before us, I used this language: "Sir, those over confident of our future may smile at that which should make a patriot tremble. Capital in this country is marching with a rapid step to power. It already shapes the legislation of National and State governments. If threatened by agrarianism, this capital will seek security in the formation of a strong government for the few at the expense of the many. And, sir, on the other hand, the unwise exercise of power which capital secures, in controlling sometimes the press, and in a thousand ways moulding legislation for its own benefit, provokes in its turn, the very spirit of agrarianism which will threaten it. It seems to me that a wise statesmanship would husband our resources for the benefit of the great body of the people, on whose devotion to our form of government our security in the future must depend. A landed monopoly is more dangerous to free government than a moneyed one. And yet, we are gravely considering whether a forfeited gift of twenty millions of acres shall be again bestowed without money and without price or non-resident speculators who own a road, which, if ever finished, is destined to tantalize you by wheeling the commerce of the continent across your extreme borders, to be emptied into the lap of rival States."

Turn to page 680 of the Senate Journals of 1876, when the law granting lands to railroads was passed, and you will find the following Senators voted no: Ball, Blasingame, Grace, Guy, Henry, Piner and Terrell—only seven in the entire Senate. Of that entire Senate I only am here. Nor are my views that Texas has been receiving emigration faster than we could assimilate them new. In 1877, in a speech delivered in Georgetown, just after the great railroad strike, I said: "I know these views do not harmonize with the stereotyped views of the press, which too often represents capital and grand enterprises, or of gushing stump speakers; but after reflection they will be approved by the calm judgment of the people. For I know that in other portions of this country, the evil days are close at hand when the experiment of free government will be more fearfully tested, than ever before, and it may be, will be pronounced a failure. I do not wish by forced immigration to import, in the shape of this turbulent labor, the seeds of our destruction. I fear, and surely we have reason to fear, that in our northern cities, starving laborers will rise like a howling giant in his strength, and anarchy, butchery or wild misrule will pave the way for

establishing a strong government, in the interest of social order, at the expense of freedom. It is but the old story of republics—freedom, wealth, luxury, corruption, anarchy, despotism. These are the transitions taught by history.

"For one, I want Texas to remain what she now is—the home of the farmer and stock man, with room enough for both, and no drones in the hive; no imported mass of hungry laborers to crowd and dissatisfy our laborers already here; no tramps to recruit the ranks of depot burners; no discontented idlers, gutter-snipes of the cities, to corrupt municipal governments with their votes, and curse them for not providing them employment; no squatters on other people's land, to live on other people's stock. From all these things we are nearly free, but all these would be brought in the turbid stream of forced immigration. If peace shall continue, our waste places will be improved only too soon, if you desire a free State; for only too close following the settlement of all your vacant lands will come the trouble between capital and labor, which all dense populations must pass through."

DeTocqueville, the learned Frenchman, said that our institutions would change, and that government, founded on popular suffrage, would disappear whenever the domain to the Pacific coast was appropriated. Its appropriation is nearly complete. Another celebrated writer, and an Englishman, said that free institutions with us depended "on elbow room and a traditional respect for the constable." The elbow room is about gone, and when I propose to enforce respect for the law, by sending the constable to the plains, by the side of the judge, then our political doctors become alarmed.

CAPITOL LANDS.

But, since the opposition seem to desire to place the author of the bill on trial, rather than the bill itself, in his dealings with the public domain, let me go a step further. In 1876 I introduced in the Senate a bill to provide for the issuance and sale of certificates for three millions of acres of the public domain of Texas, to build a new State Capitol. (Senate Journal, page 100). My plan to place that land so that the humblest man might obtain an interest was rejected by the Senate; and thus, powerless to carry out the demand of the constitution to set that land aside *in my way*, I was compelled to adopt the methods of the majority, and set it aside *their way*, and swap it in one body for a State house. For this, demagogues have hounded me and snapped at my heels; and never until this hour have I deigned to correct their slander.

Senator Gibbs.—Will the Senator answer a question?

Senator Terrell.—Certainly.

Senator Gibbs.—Did you not vote to sell land for fifty cents an acre to corporations and individuals and Capitol syndicates?

Senator Terrell.—Oh, yes; and if you had been listening to me, you would have heard how I attempted to enforce a different policy, but was powerless. Side-lined, shackled and ham-strung in my efforts to build here a university for the education of our youth, to build a new capitol, and build up and sustain our public asylums, I have stood, while some of your predecessors helped shackle me. Still toiling, while others went on with what I thought quackery, I have done my best, and the man does not breathe who can assert that he ever heard me utter one word in favor of the policy of establishing land corporations. [Loud applause.]

You have hunted me until the quarry now stands at bay, and with the help of Him who made me, if strength and voice permit, I will this day finish the work of tearing the blanket from the skeleton until all may see it. [Applause.]

FENCE CUTTING PREDICTED.

I challenge any Senator to deny that one year ago, I twice solemnly warned you in this chamber, that if my efforts to stop the spread of land corporations went still unheeded, the men were then living with grey beards on their faces who would see a howling multitude of angry men tearing down the fences that enclosed your unrented school lands, and destroying also, indiscriminately, the estates of individu-

als. Four months had not passed until the nippers were at work, and yet, I was laughed at. I will do the Senator from Dallas the justice to say that he then stood with me in committee, with a small minority, demanding the entire repeal of land corporation laws.

When the Paphandle country was put on the market at fifty cents an acre, no one ever believed it would sell for twenty-five cents an acre, and no one then dreamed of what has since occurred up there.

CORPORATIONS.

Sir, I make a broad distinction between those corporations and their rights, which are needed in opening up ways for quick transportation and public enterprises, and those which enable associated capital to speculate in land, the great source of life for multitudes. Texas, by her policy, compelled even railways to alienate their land in fifteen years, with no constitutional provision on the subject. And yet, with a Constitution which prohibits perpetuities and monopolies, we have gone blindly on creating an artificial thing called a land corporation, which never dies, though its stockholders may; invisible, yet powerful, and dwarfing individual enterprise by the power it exercises. Such legislation leads to communism by the prejudices it excites. The rich individual dies, and his property is scattered by his spoiled son—for society is like a wagon wheel as it progresses, always carrying the mud from the bottom to the top, and always dropping down that which has been elevated. The children of the rich become poor, and those of the poor rich. Not so with land corporations; they die not, neither can they be indicted, for they are intangible, invisible and soulless; artificial creations of law, with all the rights of a man, and with greater vitality. And, sir, here they are, with their stockholders in Scotland, owning and fencing in entire counties, with the county seat in the middle of their pastures—a *political public corporation in a free State, called a county, owned and controlled by a private corporation whose stockholders are subjects of the BRITISH QUEEN!* To this complexion has it come; and now you have the last touch to this picture when you see them using the school lands of Texas as a pasture, and the Senate refusing to place tribunals on the staked plains to stop it.

Senators seem to forget that the United States government will not permit even a corporation for charitable purposes to own in any territory of the United States over fifty thousand dollars worth of real estate, so jealous is the national government of landed corporations.

ROAD LAW.

The grievance of a bad road law, I have said, must be provided for in some other bill. So, also, must the check on speculative land corporations; and though the Governor does not seem to have thought that a sufficient evil to invite the Legislature to consider it, I will at the proper time test the sense of the Senate by a resolution that under authority of Art. 574 of the Code, the charters should be so amended as to restrict their duration to one year; and require them in that time to close shop, pay debts and divide their land assets among the stockholders. Their very existence is against the genius of the constitution, which prohibits perpetuities and monopolies. If the Governor will not recommend the reform, or you will not adopt it, so much the worse for Texas.

LEGISLATIVE ROBBERY.

Right here I will say I will never vote to sell one more acre of land except to an actual settler. I have attempted to show that we have on our northern border, and also along the coast and in the west, a pampered industry of less than one-twentieth of the people, who grow rich under vicious laws on a great trust estate for the education of our children, while the toiling masses of the people must, by direct taxation, pay for the prosperity of the few. I announce here that this is robbery; and that until this free grass is throttled; until those who fatten on it are compelled by law to pay for a local habitation and fasten themselves to the grass by lease or pur-

chase, the fences will continue to disappear, and there will be no peace. And I can no more be shaken from this conviction, grounded, as it is, in reason and in truth, than the wild minds of the north can shake from their deep foundations the rock-rooted cliffs of the Colorado. I say, further, that you might as well attempt to prevent the bursting of an engine by sticking straws in the seams of the boiler, or shooting the engineer, as to expect to stop fence cutting by penalties alone. You must reduce the steam, reverse the lever and pull the throttle. Votes of confidence will not save fences; and we should remember that the commune once cared as little for the Council of Five Hundred as it did for the Swiss Guards of the Palace, when they paid an unceremonious visit to him, who, three months before, they worshiped as a God. Free grass, I say for the twentieth time, is legislative robbery; the robbery of patient industry; the robbery of the many to enrich the few. And I announce further, that it makes no difference to me whether I am robbed by the partial laws of the Federal government, which shovel, under the tariff, the wages of agriculture into the pockets of manufacturers, or whether I am plundered of school taxes to make a race of cattle kings here in Texas. In both cases it is robbery. My county is taxed twelve thousand dollars more for schools than she receives back, which goes to other people; every cent of which could be saved and education made indeed, free—free, without taxation, if we force those who use the grass on school land to pay even half that it is worth. But you are gravely asked here, when did Senator Terrell become a free school advocate? If I were not amused by such stuff, so oft repeated, I would tire of it. This hand penned the law under which every child in Texas, attending free schools, has been instructed for seven years; and because I could not walk gravely to some gimlet hole, to which I was invited by a new solon, and see through it the broad day of inspiration shining on new systems of education, I was a heretic. From the constituents of these same tinkers with public education, we are now attempting to rescue the school lands; and from the protecting care of all such, may the good Lord deliver the children of Texas.

FREE GRASS A CURSE.

The Stock Convention, with singular good judgment, (if they were sincere), declared that free grass must cease; the Real Estate Convention, meeting here the same week, pronounced the same verdict; and no sane man can doubt the verdict of the 343,000 farmers of Texas, who toil and pay taxes to make grass free to the favored few. And now remember my prediction: if you fail to heed their interests, and exalt yourselves, not only will you perpetuate the reign of violence, but you will be made to imitate that ruler of old, who, for exalting himself, was despoiled of his power and turned out on free grass as a punishment. Free grass was the curse pressed to the lips of Babylon's king, and the same curse now clings like the shirt of Nessus to Texas. Feebly, it may be, yet with faith firm as a rock that the bill affords the surest road to social order, I have presented my views; and whatever be the fate of this measure, my conscience is clear. This fearful raid upon property rights has invaded my own district; and only last Saturday night, nine miles of wire fence around a pasture worth \$90,000 were cut here within twenty-five miles of Austin. Every post was cut for nine miles, two feet above the ground, and it must have required a force of fifty men to do it. I would, if I had the power, enact a law to place all such misguided men in the cells of a penitentiary. Without knowing it, they have sacrificed the cause of free government on the altar of anarchy, and must be made to learn that true liberty is only such when regulated by law. Yes, and I would place the stockholders and ranchmen of every corporation, and the owners of every pasture, who grow rich by enclosing school grass without paying for it, in the same penitentiary, by the side of the fence-cutters, with striped breeches, to learn some honest trade, if they shall refuse to obey a law requiring them to pay for that grass.

FUTURE OUTLOOK.

The prospect is dark, but around the black cloud I see a silver lining. Texas is not the soil in which the loose idea that land must be free like air, can take permanent root. When we compare our condition with that of older States, the warm blood must leap with exultation and hope, over the future. No blundering statesmanship or doubting helmsman can strand us, for on the broad shoulders of the mighty host of tillers of the soil, who, in the end, are always conservative, the ark of constitutional government will move forward. Let us go again to figures:

In 1880, Pennsylvania had of persons engaged in professional and personal services.....446,713
Of those engaged in professional, manufacturing and mechanical industries.....528,277

In all.....974,990
She had engaged in agriculture.....201,828

673,162

So she had 673,162 more persons engaged in manual labor away from farms than she had on farms. And it is safe to assume that 99 out of every 100 of those engaged in mechanical, manufacturing, and mining industries, and those in professional and personal services, were men on wages, and without property. The census of 1870 compared with this showing reveals the fact that the gulf between riches and poverty, is more than two hundred per cent deeper there now than in 1870.

Massachusetts shows about the same result. Come now to the States of Missouri, Kansas and Texas:

There are persons engaged in agriculture in Missouri..... 355,297
Personal and professional services.....148,588
Mechanical, manufacturing and mining industries.....100,774—149,362

105,935

So there were in Missouri 105,925 more people pursuing the industries of the farm and independent in the enjoyment of its blessings than there were of all other laboring classes.

In Kansas the comparison is even more favorable, for it shows an excess of 116,000 persons employed in agriculture.

But see, now, how our mighty State moves to the front, when, after deducting the 14,031 herdsmen and stockraisers—

Persons.

We have engaged in agriculture for a living..... 344,268
We have in professional and personal services..... 97,056
And in mechanical, manufacturing and mining industries..... 30,346—127,402

Leaving..... 216,884

So that Texas has 216,884 more farmers than stockmen and their hands, laborers, rounders, professional and mechanical men, all combined.

Can anarchy disturb such a state, except for a moment? The cause of social order and property security may, for an instant, be cast to the earth, but it will be raised again on the strong arms of her farmers, who, like Antæus, when thrown by Hercules, will only rise stronger and fresher whenever they touch earth's bosom. Though organized plunder of our producing classes to make cattle kings may continue; though the growlings of the bottom dog now may remain unheeded; even if every wire fence from the Red River to New Mexico, and from the sand hills to the coast shall go down, behind this cloud is the sun of a mighty future. The old ship, with or without a helmsman, will right herself, and Texas, broad breasted and strong of limb, will move forward in her high career, securing property rights and order, by enforcing law, and bearing the blessings of a higher civilization to millions yet unborn.



3 0112 061593171